IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.243 OF 2003

IN

SUMMARY SUIT NO.2715 OF 2000.

Smt Swati Shekhar .. Plaintiff

versus

Smt Mamta Pankaj Dharia & ors .. Defendants

...

Mr. B.Vaishnava for Plaintiff.

Mr. R.T.Parekh for Defendants.

CORAM : D.G. KARNIK, J

DATED : 11th January 2005.

P.C:-

1. This Summons for Judgment is taken out in a suit filed by the plaintiff for recovery of money allegedly advanced to Pankaj Dharia husband of defendant no.1 and father of defendant nos. 2 and 3. The defendants are sued in the capacity as legal representatives of

the deceased Pankaj Dharia. The defendants have denied execution of the promissory note by Pankaj. They have further denied that any loan was received by Pankaj. In the circumstances, the plaintiff would be required to prove that loan was advanced and promissory note was executed by Pankaj. The plaintiff would be further required to prove that the defendants have inherited any property of Pankaj and that they are liable as heirs of Pankaj having inherited the property.

2. In the circumstances, the defences raised by the defendants raise triable issues. Defendants are therefore granted unconditional leave to defend the suit. The defendants to file written statement within a period of 8 weeks. Suit shall stand transferred to the list of commercial causes.

D.G.KARNIK, J